

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND
NORTHERN DIVISION**

PLANET AID, a Massachusetts
Non-profit Corporation,
47 Sumner St.
Milford, MA 01757

Plaintiff,

v.

BALTIMORE COUNTY, a Maryland
Municipal Corporation,
Baltimore County Clerks Office
Historic Courthouse
400 Washington Avenue
Towson, Maryland 21204

SERVE ON: **Resident Agent:** MICHAEL
FIELD, COUNTY ATTORNEY
BALTIMORE COUNTY OFFICE OF LAW
ROOM 219
400 WASHINGTON STREET
TOWSON MD 21204

Defendant.

Case No.:

VERIFIED COMPLAINT

DEMAND FOR JURY TRIAL

Introduction

NOW COMES the Plaintiff, Planet Aid, and for its Complaint against Defendant,
Baltimore County, Maryland, says as follows:

1 **Parties**

2 1. Plaintiff Planet Aid (hereinafter “Planet Aid” or “Plaintiff”) is a
3 501(c)(3) nonprofit corporation incorporated in Massachusetts and headquartered
4 in Elkridge, Maryland.

5 2. Planet Aid, in order to gather donations of clothes, textiles, and other
6 lightly used goods that ultimately go to benefit development aid programs in some
7 of the poorest communities in the world, places clearly labeled, stand-alone
8 donation bins at various locations across the State of Maryland and nationwide.

9 3. Until August 2017, Planet Aid had a total of Two Hundred and Sixty
10 (260) donation bins located within the Baltimore County, Maryland, all of which
11 were active at the time the County adopted Bill 43-17 of the County Council of
12 Baltimore County, Maryland on August 18, 2017.

13 4. Defendant Baltimore County (hereinafter “County” or “Defendant”) is
14 a chartered municipal corporation existing under the laws of the State of Maryland.

15 **Jurisdiction and Venue**

16 5. This Court has subject matter jurisdiction over this case pursuant to 28
17 USC § 1331, as this action arises under the First and Fourteenth Amendments to
18 the United States Constitution; under 28 USC § 1343(a)(3), in that it is brought to
19 redress constitutional violations and deprivations of law under color of state law, of
20 rights, privileges and immunities secured by the United States Constitution; under
21 42 USC § 1983, which provides causes of actions for the protection of civil and
22 constitutional rights and damages; and under 42 USC § 1988, to secure costs and
23 reasonable attorney fees as part of the case. This Court has supplemental
24 jurisdiction over Plaintiff’s Maryland constitutional claims asserted herein as those
25 claims form part of the same case or controversy as the federal questions asserted
26 herein, pursuant to 28 USC § 1367(a).

27 6. The venue in this action is proper within the District of Maryland,
28 Northern Division pursuant to 28 USC § 1391(b), in that (a) Plaintiff owns and

occupies property within this judicial district; (b) Defendant is situated within this judicial district; and (c) all of the claims asserted by Plaintiff arose within this judicial district.

Nature of Action

7. This is a civil action wherein Plaintiff Planet Aid prays for a declaratory judgment against Defendant Baltimore County in order to prevent Defendant from acting under color of state law to deprive Plaintiff of its constitutional rights.

8. Through this suit, Plaintiff prays for a declaration from this Court, pursuant to 28 U.S.C. § 2201, 42 U.S.C. § 1983, and Federal Rule of Civil Procedure 57, because Baltimore County Bill No. 43-17 (the “Ordinance”), which amends Section 415B.1,101.1 of the Baltimore County Zoning Regulations, is unconstitutional in that it deprives Plaintiff of certain rights and privileges guaranteed under the United States and Maryland Constitutions.

9. Specifically, by requiring use permits for each collection bin, without providing rules, regulations and a functional application and permitting process, subjected to a reasonable permitting fee, the Ordinance effectively prohibits the operation of donation bins in all zones within Baltimore County.

10. The County failed to establish a permitting system, failed to establish a permitting fee, enabled staff to establish arbitrary and discretionary rules and regulations concerning the placement of bins, and has begun ticketing Plaintiff to remove the donation bins prior to the effective date of the Ordinance being established.

11. Furthermore, the Ordinance does not regulate or prohibit other similar types of receptacles, such as recycling bins or garbage dumpsters.

12. In sum, the County’s enactment of the Ordinance violates Plaintiff’s rights under the Free Speech and Equal Protection clauses of the United States and Maryland Constitutions.

1 13. Plaintiff concurrently seeks immediate injunctive relief enjoining
2 Defendant from enforcing the Ordinance, which will go into effect on November
3 18, 2017.

4 **General Allegations**

5 ***Planet Aid and its Charitable Mission***

6 14. Plaintiff Planet Aid is a Massachusetts nonprofit organization that was
7 founded in 1997 in order to improve health, aid vulnerable children, and reduce
8 poverty in some of the poorest communities in the world.

9 15. In an effort to carry out this mission, Planet Aid operates and
10 maintains donation collection bins (“donation bins” or “bins”) at various private
11 and public properties across the country. Individuals are able to donate their used
12 clothing, shoes, and other textiles at these locations. An example of Planet Aid’s
13 bins is shown below.



1 16. Planet Aid sells all the clothing it collects to markets all over the
2 world and uses the proceeds from these sales to pay for development programs in
3 poor communities in Latin America, Africa and Asia and to pay for the overhead
4 expenses to operate the non-profit.

5 17. Individuals deposit donations in Planet Aid's collection bins, which
6 are located on private and public properties in visible and accessible areas.

7 18. All of Planet Aid's donation bins are clearly marked as belonging to
8 Planet Aid and contain contact information for anyone to contact Planet Aid
9 officials for any reason. Planet Aid's web site explains in depth how the used
10 clothing collection works and where the proceeds are spent. It also has clearly and
11 easily accessible contact information to Planet Aid's headquarter and local offices.

12 19. Planet Aid representatives generally visit each of its donation bins
13 frequently in order to collect the donated goods and to avoid bin overflow and
14 goods accumulating outside the bins.

15 20. Before placing its donation bins at any location, Planet Aid officials
16 contact the property owner or manager or lessee and obtain permission to place the
17 bins at a particular private or public property.

18 21. Planet Aid executes a written agreement between itself and the
19 property owner or business manager or the lessee of each property where Planet
20 Aid places a bin. The agreement includes the address of where the donation bin is
21 placed, the name and title of the person who gave permission for Planet Aid to
22 place its bin at that property, information regarding Planet Aid's commitment to
23 maintaining the bin and keep its immediate vicinity clean, and a bird's view photo
24 (Google or Bing maps) of where the particular bin is located at that site.

25
26 ***Planet Aid's Charitable Efforts in Baltimore County***

27 22. Beginning in 2004, Planet Aid expanded its charitable efforts into
28 Baltimore County, Maryland, by placing donation bins at various locations

1 throughout the County.

2 23. Planet Aid placed a total of Four Hundred (485)-donation
3 bins throughout the County, of which Two Hundred and Sixty (260) were
4 in operation at the time the Ordinance was adopted.

5 ***The County Enacted an Ordinance Prohibiting Collection Bins***

6 24. At its July 3, 2017 meeting, Baltimore County Council Member Tom
7 Quirk introduced a bill to amend the County Zoning Ordinance to regulate how
8 clothing and shoe donation bins may be located in Baltimore County.

9 25. The minutes do not reflect any reason for the Bill, any public
10 comment, commission comment, administration comment, any rational basis or
11 any reason for the introduction of Bill 43-17.

12 26. Proposed Bill 43-17 was neither introduced, discussed or presented to
13 Planet Aid, a prominent bin operator who has its headquarters in Howard County,
14 MD and a large thrift retail establishment in Baltimore County, and upon
15 information and belief, any other bin operator.

16 27. On August 7, 2017, the Baltimore County Council enacted Bill No.
17 43-17, with the effective date of November 18, 2017, amending the zoning code
18 for Baltimore County but without establishing a reasonable and functional
19 permitting system for donation bins.

20 28. The enactment of Bill No. 43-17 occurred without notice to Planet
21 Aid, and upon information and belief, no other donation bin operator, despite the
22 content of the bill that targets only donations bins and not any other type of bin.

23 29. The minutes of the August 7, 2013 County Council meeting do not
24 reflect any reason for the Bill, any public comment, commission comment,
25 administration comment, any rational basis or any reason for the passage of Bill
26 43-17.

27 30. In establishing Bill 43-17, the Baltimore County Council provided as
28

1 follows:

- 2 a. An amendment of Sections B1.1, 101.1, the definition of “Collector
- 3 Trailer” and 500.4 of the Baltimore County Zoning Regulations.
- 4 b. Defined the term “Collection Bin.”
- 5 c. Limited the placement of Collection Bins to be placed on shopping
- 6 center properties, industrial park properties, fuel service stations
- 7 properties;
- 8 d. Requires a bin operator to possess a discretionary “use permit” by the
- 9 Director of Permits, Approvals and Inspections.
- 10 e. Requires a bin operator to show the placement of the bin on the
- 11 “overall functional site plan of the shopping center and property in
- 12 question,” and other “considerations that he (the Zoning
- 13 Administrator) may deem necessary.”
- 14 f. Requires compliance with the new Ordinance by existing bin
- 15 operators within 90 days of the effective date, noted as November 18,
- 16 2017.
- 17

18 ***The Ordinance’s Effect on Planet Aid***

19 31. Soon after the Ordinance was passed, Code Enforcement Officers

20 began issuing citations to property owners who have Planet Aid donation bins on

21 their properties, instead of waiting until November 18, 2018 as required by the

22 Ordinance.

23 32. One site host, which Planet Aid has a contract allowing it to place bins

24 on the property, has withdrawn Planet Aid’s donation bins from 45 properties in

25 Baltimore County based on the code enforcement action taken by the County.

26 33. In response to the ticketing, Planet Aid representatives appeared at the

27 Zoning Administrators office to pick up applications for the donation bins. The

28 office did not have applications and informed the representatives Planet Aid that

1 the County did not have staff selected, a process ready or any mechanism to secure
2 a permit.

3 34. Thereafter, representatives of Planet Aid contacted County Council
4 Member Quirk's office in Catonsville, the author of the Bill, to explain the impact
5 of the ordinance: namely, the ticketing and the lack of a process to secure a permit.

6 35. Margaret Stokes, Legislative Aide and Cathy Engers, Senior Council
7 Assistant for Council Member Quirk explained that the bill 43-17 was not aimed at
8 Planet Aid. They said that Planet Aid was compliant with the law. They further
9 said that the reason for the bill was to get rid of hundreds of wooden collection
10 bins, placed throughout the county without property owners' permission and
11 without contact information on the bins.

12 36. In response, representatives of Planet Aid returned to the County
13 Zoning and Permitting Office to find if there was any movement on an application,
14 a process, a fee and the requirements to secure a permit.

15 37. The representatives of Planet Aid were then told that there is a "\$100"
16 "Counter Fee" to be paid at the Court House when a permit was issued. The
17 County's Zoning Fee sheet does not list a Counter Fee. Further more, Planet Aid's
18 representative was told that the application required a site plan for the entire
19 property, not just the area where the donation bin was to be placed and that site
20 plans should be provided by the property owners. Further more, that donation bins
21 could not be placed on parking spaces, unless the property owners submit
22 applications for site plan modification to change square footage of paved and open
23 areas, request a hearing at Permits, Approvals and Inspections and in essence go
24 through a full site plan modification. Further more Planet Aid's representative was
25 told that the donation bins would probably not be allowed on parking lot islands or
26 berm areas. Based on this subjective criterion, which are invented, expanded and
27 changed in lockstep with Planet Aid's increasing questions to the Department of
28

1 Permits, Approvals and Inspections for clarification about the application and
2 permitting process, Baltimore County has a defacto ban on donation bins.

3 38. On November 9, 2018, legal counsel for Planet Aid sent a letter to the
4 County Attorney outlining the legal issues at play and requested a stay of
5 enforcement. In addition, the attorney provided a sample ordinance, a white paper,
6 the published decision of *Planet Aid v. St. Johns, Michigan* and a thorough letter
7 explaining the constitutional issues that have arisen from the enactment and
8 enforcement of the Ordinance.

9 39. In response to the letter, the County Counsel has dismissed the tickets
10 issued to the property owners who were cited and fined.

11 40. However, the Baltimore County Code Enforcement Office continues
12 to harass site host of the Planet Aid bins, demanding that they remove the same or
13 face being ticked.

14 41. The offending Ordinance remains in place. On November 18, 2017,
15 the Ordinance will be effective and Planet Aid is at risk of having all of its
16 donation bins ticketed, the company fined and potentially the same removed while
17 at the same time, have no viable process in place to secure a permit. It is, therefore,
18 at risk of losing the approximately 30,000 pounds of clothes weekly at its sites in
19 Baltimore County. Additionally, the threatening and harassment by Defendant is
20 causing property owners in contract with Planet Aid for placement bins to
21 withdraw their permission for placements, costing Planet Aid a major loss in
22 ability to collect donated clothing.

23 42. The revocation of these sites, and the ability to collect donated
24 clothing, will have devastating impact on the mission of Planet Aid, to benefit
25 families and persons in need.

26 43. As a result of the County's enactment and enforcement of the
27 Ordinance, Planet Aid is effectively barred from locating any donation bins within
28

1 the County for the purpose of soliciting charitable donations.

2 44. Planet Aid will indefinitely continue to be barred from soliciting
3 charitable donations in the County.

4 **FIRST CAUSE OF ACTION**

5 **Violation of the United States Constitution**

6 **Free Speech Clause: First and Fourteenth Amendments**

7 45. Plaintiff incorporates by this reference the allegations of paragraphs 1
8 through 44, inclusive, as though fully set forth herein.

9 46. The Ordinance is a broad, prophylactic rule that violates the United
10 States Constitution on its face and as applied to Planet Aid.

11 47. The solicitation of charitable donations such as clothing, shoes, and
12 other textiles is a form of speech fully protected by the First Amendment to the
13 United States Constitution.

14 48. Planet Aid has a constitutional right to engage in this protected speech
15 and may not be prohibited from exercising this right unless Defendant can prove
16 that its restriction on Plaintiff's speech does not burden substantially more speech
17 than necessary and is narrowly tailored to further a substantial state interest.

18 49. At all times alleged herein, Defendant has been and will continue to
19 be acting under the color of state law and engaging in state action.

20 50. Constitutionally protected activities may not be directly and
21 substantially limited, diminished, prohibited, or chilled by state actions, including
22 the actions of local governments such as Defendant, acting under the color of state
23 law.

24 51. The Ordinance's prohibition on donation bins in the County directly,
25 indirectly, and substantially limits Planet Aid, as well as a number of other entities,
26 from engaging in constitutionally protected speech.

27 52. The Ordinance proscribes Planet Aid, as well as other similarly
28 situated organizations, from engaging in protected speech in the County simply

1 because these organizations utilize donation bins as a means of effectuating their
2 right to free speech.

3 53. The Ordinance is not supported by any legitimate state interests, nor is
4 the Ordinance narrowly tailored to further said interests, since the County's
5 interests can all be attained without prohibiting or chilling constitutionally
6 protected activities.

7 54. Additionally, the Ordinance contains various exceptions that allow
8 certain collection bins to be located in the County.

9 55. Moreover, the Ordinance contains several other provisions that
10 regulate, but do not ban, a number of receptacles that are similar to donation bins,
11 including recycling and waste containers.

12 56. The Ordinance, therefore, constitutes a content-based restriction on
13 speech, and completely extinguishes Planet Aid's ability to carry out its free
14 speech rights by soliciting charitable donations at its donation bins. By silencing
15 Planet Aid's speech in its entirety, Defendant has impermissibly restrained the
16 content of Planet Aid's speech and unconstitutionally favored some speech over
17 other speech.

18 57. The County's Ordinance is subject to strict scrutiny as a form of
19 discrimination amongst speakers.

20 58. Planet Aid is suffering and will continue to suffer irreparable harm by
21 the County's enforcement of the Ordinance.

22
23 **SECOND CAUSE OF ACTION**
24 **Maryland Constitution, Declaration of Rights**
25 **Freedom of Speech: Article 10**

26 59. Plaintiff incorporates by this reference the allegations of paragraphs 1
27 through 58 inclusive, as though fully set forth herein.

28 60. Under Article 10 of the Declaration of Rights of the Maryland
Constitution provides for Freedom of Speech.

1 61. Defendant has deprived and continues to deprive Plaintiff of its right
2 to freedom of speech by adopting and enforcing the Ordinance, which bars Planet
3 Aid from effectively operating donation bins in Baltimore County, in violation of
4 Article 10 of the Declaration of Rights of the Maryland Constitution.

5 **THIRD CAUSE OF ACTION**
6 **Violation of the United States Constitution**
7 **Equal Protection Clause: Fourteenth Amendment**
8 **42 USC § 1983**

9 62. Plaintiff incorporates by this reference the allegations of paragraphs 1
10 through 62, inclusive, as though fully set forth herein.

11 63. The Equal Protection Clause prohibits discrimination by a
12 governmental entity that burdens a fundamental right.

13 64. The right to freedom of speech is a constitutionally protected
14 fundamental right.

15 65. Zoning ordinances that affect fundamental rights are subject to strict
16 scrutiny.

17 66. The Ordinance imposes a blanket prohibition barring organizations
18 from operating donation bins in the County.

19 67. The County's asserted interests are not "compelling" for purposes of a
20 constitutional analysis.

21 68. Furthermore, the Ordinance is not narrowly tailored in order to
22 achieve the County's asserted interests.

23 69. In contrast, the Ordinance does not apply to commercial dumpsters,
24 recycling bins, paper collecting bins, residential trash bins and organizations, such
25 as Salvation Army, St Vincent DePaul and other charitable organizations that
26 solicit and collect charitable donations at a permanent structure rather than with
27 donation bins.

28 70. This disparate treatment bears no rational relationship to any

1 compelling state interests. Any legitimate state interest, such as public safety,
2 nuisance abatement or protecting property values, which compels the regulation of
3 donation bins in the County, must apply equally to all collection containers.

4 71. Since the interests asserted in the Ordinance are not compelling and
5 the County has not narrowly tailored the Ordinance to achieve its asserted interests,
6 the Ordinance fails strict scrutiny review.

7 72. As such, the Ordinance is in violation of the Equal Protection Clause
8 of the Fourteenth Amendment to the United States Constitution by discriminating
9 against Planet Aid and other similarly situated entities.
10

11 **FOURTH CAUSE OF ACTION**

12 **Violation of the Plaintiff's Procedural and Substantive Due Process Rights** 13 **Guaranteed by the Fourteenth Amendment to the** 14 **United States Constitution (42 U.S.C. § 1983)**

15 73. Plaintiff restates the allegations in paragraphs 1 through 73 as if fully
16 restated herein.

17 74. Beginning in the year 2004, Plaintiff Planet Aid lawfully placed four
18 hundred and eighty seven (487) binds in Baltimore County, of which, two hundred
19 and sixty (260) donation bins remain.

20 75. Prior to August 3, 2017, the County did not enforce the Ordinance in a
21 manner that prohibited or in any way regulated the placement of donation bins
22 within Baltimore County.

23 76. Because the County did not regulate donation bins within the County
24 of Baltimore prior to Ordinance 43-17, Plaintiff's use of property for the placement
25 of donation bins for more than 13 years, constitutes a prior non-conforming use
26 under the laws of the State of Maryland and the ordinances of Baltimore County.

27 77. Further, under Maryland state constitutional law, has a property
28 interest in the bins, through contracts and leases with site host, resulting in a vested

1 right in prior nonconforming uses that have not otherwise been legally invalidated.

2 78. Plaintiff had a valid property interest in the location of its donation
3 bins as a non-conforming use.

4 79. Defendant, under color of state law, has deprived and continues to
5 deprive Plaintiff of substantive due process of law, as secured by the Fourteenth
6 Amendment to the United States Constitution, by denying Plaintiff use of its
7 donation bins based upon an irrational and discriminatory motivation.

8 80. Defendant, under color of state law, has also deprived and continues
9 to deprive Plaintiff of Due Process as secured by the Fourteenth Amendment to the
10 United States Constitution.

11 81. Further, prior to the enactment of the Ordinance, Baltimore County
12 was constitutionally required to provide Plaintiff notice and a hearing prior to
13 demanding that it remove the bins.

14 82. The County of Baltimore did not provide Plaintiff notice or an
15 opportunity for a hearing prior to the County making the unilateral decision to
16 begin enforcing the Ordinance in a manner that prohibits Plaintiff from operating
17 recycling donation bins in the County.

18 83. The County's decision to enforce the Ordinance in a manner that
19 prohibits Plaintiff from operating donation bins in the County, without providing
20 Plaintiff notice or an opportunity to be heard prior to this decision, violates
21 Plaintiff's right to procedural due process of the law as guaranteed by the
22 Fourteenth Amendment to the United States Constitution.

23 84. Additionally, Baltimore County is required to provide bin operators,
24 such as Planet Aid, a mechanism to secure a permit with objective criteria prior to
25 enforcing the Ordinance.

26 85. Baltimore County failed to provide a mechanism, a process, plan or
27 procedure to secure a permit for the placement of donation bins. The site plan
28 modification, which we have been instructed to follow, is overly burdensome and

1 prohibitively costly, which bars Planet Aid from carrying out our constitutional
2 right. Collection bins are placed with at-will agreements and not as permanent
3 structures. They are not installed as fixed structures on a property and they take up
4 16 square feet of ground space, which is an immaterial area on most properties.
5 Further, collection bins provide an important public service, as well as having an
6 important social and environment impact.

7 86. Planet Aid has been harmed, and continues to be harmed, by the
8 enforcement of the Ordinance where the County has started code enforcement to
9 punish bin operators who do not have permit even though the County has no
10 process to issue permits.

11 87. As a direct result of the County's violation of Plaintiff's Fourteenth
12 Amendment rights to due process as alleged above, Plaintiff is suffering
13 irreparable harm for which there is no adequate remedy of law.

14 88. As a direct result of the County's violation of Plaintiff's Fourteenth
15 Amendment rights to due process, as alleged above, Plaintiff has suffered and is
16 entitled to recover compensatory and nominal damages, costs and attorney fees.

17
18 **FIFTH CAUSE OF ACTION**
19 **Violation of the Dormant Commerce Clause**

20 89. Plaintiff restates the allegations in paragraphs 1 through 89 as if fully
21 restated herein.

22 90. The Commerce Clause of the United States Constitution provides that
23 "Congress shall have Power ... to regulate Commerce with foreign Nations, and
24 among the several States, and with the Indian Tribes...." U.S. Const. art. I, sec. 8,
25 cl. 3.

26 91. The Commerce Clause prohibits state laws and regulations that (i)
27 discriminate against interstate commerce; (ii) regulate extraterritorial commerce; or
28 (iii) unduly burden interstate or extraterritorial commerce.

1 92. The Dormant Commerce Clause is a court-recognized doctrine that
2 provides that if a statute passed by Congress is silent on a point of interstate or
3 international commerce, states are free to pass legislation that might pertain to it if
4 the state law does not discriminate against or inappropriately burden interstate
5 commerce.

6 93. By effectively prohibiting all donation bins in the County, the Zoning
7 Ordinance facially regulates the channels of interstate commerce and their use.

8 94. The burden the Zoning Ordinance places on donation bin operators is
9 excessive in relation to any purported local benefits. Because the Ordinance allows
10 organizations that are located in permanent facilities within the County to continue
11 soliciting and collecting donated items but entirely prohibits out-of-state
12 organizations that do not own property in the County and instead place donation
13 bins on the property of others, the Ordinance imposes a disproportionately higher
14 burden on out-of-state organizations such as Planet Aid, and thus constitutes an
15 undue burden on interstate commerce in violation of the Commerce Clause.
16

17 95. Planet Aid has suffered and will continue to suffer irreparable harm if
18 Defendant is permitted to continue enforcement of its Ordinance.

19 96. Planet Aid is therefore entitled to a declaratory judgment that
20 Defendant's exclusion of Planet Aid's donation bins is unconstitutional under the
21 Dormant Commerce Clause.

22 97. Planet Aid is further entitled to injunctive relief prohibiting Defendant
23 from enforcing the Ordinance in a manner that excludes out-of-state organizations
24 from operating donation bins in the County while permitting organizations with
25 permanent, in-state facilities to solicit and collect donations.

26 98. As a further direct result of the County's violation of the Dormant
27 Commerce Clause, as alleged hereinabove, Plaintiff has suffered and is entitled to
28 recover compensatory and nominal damages, costs and attorney fees.

1 **Prayer of Relief**

2 **WHEREFORE**, Plaintiff Planet Aid respectfully requests a judgment
3 against Defendant Baltimore County on each and every count alleged herein as
4 follows:

- 5
- 6 1. Adjudge, decree and declare the rights and other legal relations
7 of the parties to the subject matter in controversy in order that
8 such declaration shall have the force and effect of final
9 judgment and that the Court retains jurisdiction of this matter
for the purpose of enforcing the Court's Order;
- 10 2. Pursuant to 28 USC § 2201, declare the aforementioned
11 Ordinance, and to the extent such provision is not severable, the
12 Baltimore County Bill 43-17, to be in violation of the First and
13 Fourteenth Amendments to the United States Constitution, and
14 further declare that Plaintiff is permitted as of right to operate
15 donation bins in the County as a means of exercising its
constitutional right to solicit charitable donations;
- 16 3. Pursuant to 28 USC § 2202, Fed. R. Civ. P. 64, 42 USC § 1983,
17 and 42 USC § 2000cc-4, permanently enjoin Defendant from
18 enforcing the Ordinance to the extent that it prevents Plaintiff
from operating donation bins in the County;
- 19 4. Pursuant to 28 USC § 2202 and Fed. R. Civ. P. 64, award
20 Plaintiff exemplary, compensatory and nominal damages;
- 21 5. Pursuant to 28 USC § 2202, Fed. R. Civ. P. 65, 42 USC § 1983,
22 and 42 USC § 1988, 42 USC § 2000cc-4, award Plaintiff all
23 necessary and appropriate equitable relief;
- 24 6. Pursuant to 42 USC § 1988, 42 USC § 2000cc-4(d), Fed. R.
25 Civ. P. 54(d), and other applicable law, award Plaintiff its
26 reasonable attorney fees and costs; and
- 27 7. Grant such other and further relief, injunctive or otherwise, as
28 the Court deems equitable, just and proper.

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 0
- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 0
- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8

I have read paragraphs 1 through 3 and 14 through 45 of the Verified Complaint, and know the contents thereof. I certify that the same is true of my own knowledge, except as to the matters which are therein stated upon my information or belief, and as to those matters, I believe them to be true.

Signed on November____, 2017, at Elkridge, Maryland.

Respectfully Submitted,
Dalton & Tomich, PLC

And

/s/ Daniel L. Cox
D. Maryland Bar No. 28245

1 P.O. Box 545
2 Emmitsburg, Maryland, 21727
3 Tel: 410.254.7000
4 Facsimile: 410.254.7220
5 dcox@coxlawcenter.com
6 Attorneys for Plaintiff

7 **REQUEST FOR JURY TRIAL**

8 Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Plaintiff
9 hereby demands a trial by jury in the action of all issues so triable.

10 Respectfully Submitted,

11 **Dalton & Tomich, PLC**

12 /s/ Daniel P. Dalton

13 Michigan Bar No. P. 44056 - *Pro Hac Vice* Pending

14 The Chrysler House

15 719 Griswold St., Ste. 270

16 Detroit, MI 48226

17 Tel: 313.859.6000

18 Email: ddalton@daltontomich.com

19 *Lead Counsel*

20 And

21 **The Cox Law Center, LLC**

22 /s/ Daniel L. Cox

23 D. Maryland Bar No. 28245

24 P.O. Box 545

25 Emmitsburg, Maryland, 21727

26 Tel: 410.254.7000

27 Facsimile: 410.254.7220

28 dcox@coxlawcenter.com